

Congress of the United States
House of Representatives
Washington, DC 20515-0530

HENRY A. WAXMAN
30TH DISTRICT, CALIFORNIA

November 5, 2007

**PERU FTA: A STEP IN THE RIGHT DIRECTION
FOR ACCESS TO MEDICINES**

Dear Colleague:

I am writing to express my support for the Peru Free Trade Agreement (FTA), based on important changes that congressional leadership has been able to negotiate in the intellectual property provisions for pharmaceutical products.

According to the medical aid organization Doctors Without Borders, one-third of the world's population lacks access to essential medicines. But a GAO report that Sen. Kennedy and I released on Tuesday found that the U.S. Trade Representative (USTR) has essentially disregarded public health in its vigorous pursuit of protections for the brand name pharmaceutical industry.

Specifically, in negotiating free trade agreements, the Bush Administration has demanded intellectual property protections for pharmaceuticals that go beyond World Trade Organization (WTO) standards and stand to significantly delay generic competition. For developing countries, delaying the availability of low-cost generic drugs is a threat to already under-resourced health and regulatory systems and could leave millions of poor people without access to affordable medicines.

Initially, the Peru FTA was no exception. However, this spring the Democratic congressional leadership successfully negotiated substantial improvements to pharmaceutical-related provisions. The revised Peru FTA restores much of the flexibility needed to protect public health. Patent extensions are no longer mandatory and the agreement gives regulatory agencies greater freedom to approve generic medicines by having patent disputes resolved through the legal system instead of the drug approval process. Language was also added to make clear that the FTA does not and should not prevent Peru from taking measures to override patent and other restrictions to protect public health.

The Peru FTA is not perfect. There is a provision that limits generic competition for up to five years after a new drug is approved, even in the absence of a patent. However, the new FTA does have a mechanism for generic medicines to become available in Peru no later than they are available in the United States. Additionally, the new FTA language makes clear that Peru can override the five-year restriction if public health needs demand it.

With the revisions to the Peru FTA, Congress has an important opportunity to embrace a new direction and build momentum for further changes to U.S. trade policy that will do even more to prioritize access to medicines and public health.

The GAO report, "Intellectual property: U.S. Trade Policy Guidance on WTO Declaration on Access to Medicines May Need Clarification," is available at [http://www.house.gov/waxman/issues/foreignaffairs/issues_foreign_affairs IT.htm](http://www.house.gov/waxman/issues/foreignaffairs/issues_foreign_affairs_IT.htm).

Sincerely,

A handwritten signature in dark ink, appearing to read "Henry A. Waxman". The signature is stylized with a large initial "H" and a cursive "A".

HENRY A. WAXMAN
Member of Congress